

UNIVERSITY OF CALIFORNIA

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SENIOR VICE PRESIDENT—
BUSINESS AND FINANCE

May 8, 1998

U. S. Department of Energy
Office of General Counsel, GC-52
1000 Independence Avenue, S. W.
Washington, DC 20585

RE: Price Anderson Act Extension Comments

Recently I learned of interpretations of the University's comments submitted on January 30, 1998, that I think bear some clarification. One of our comments suggested an alternative for DOE if the civil fine exemption were to be eliminated. That comment was not an endorsement for eliminating the exemption; rather it is a means for partially mitigating the adverse consequences to the production of science were the exemption eliminated. The University has never believed that the risk of financial incentives or penalties is the most appropriate means of motivating non-profit organizations to either perform better or avoid inappropriate actions. Consequently we do not embrace the imposition of criminal or civil fines and penalties under the Price Anderson Act.

In the face of increasing risks of non-reimbursability for costs incurred under, DOE management and operating contracts, the Department of Energy has embarked on a practice of offering fees to non-profits to enable their continuation as government contractors. The University has accepted a fee to enable continuing its public service role for DOE. All of the University's "fee" not used to pay for costs incurred at or for the DOE laboratories is used to conduct discretionary research at or for the DOE laboratories. The fee is paid for by a reduction in the amount of the funds appropriated for scientific programs.

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It is our recommendation that the Act be extended while reducing the financial risk for fines and penalties to non-profit organizations. This would eliminate one of the reasons for a fee and its resultant adverse effect on the availability of funds for science.

Sincerely,

V. Wayne Kennedy
Senior Vice President

cc: Director Browne, LANL
Director Shank, LBNL
Director Tarter, LLNL
Director Krebs, DOE/HQ
Manager Turner, DOE/OAK
Manager Twining, DOE/AL
Provost and Senior Vice President King, UC
General Counsel Holst, UC
Assistant Vice President Van Ness, UC